

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	CRIMINAL ACTION NO.
v.	)	2:18cr243-MHT
	)	(WO)
HOWARD JAMES SMITH	)	

OPINION AND ORDER

Defendant Howard James Smith moved to dismiss the indictment against him for lack of subject-matter jurisdiction. This case is before the court on the recommendation of the United States Magistrate Judge that Smith's motion to dismiss be denied. There are no objections to the recommendation. Upon an independent and de novo review of the record, the court will adopt the recommendation. The court also addresses two additional arguments Smith asserted that were not addressed in the recommendation.

In the recommendation, the magistrate judge properly rejected Smith's claim that this court does not have subject-matter jurisdiction under 18 U.S.C. § 3231 because the statute lacks an enacting clause.

Smith also argued that Congress improperly enacted the law that established Title 18 of the United States Code, including § 3231. The court rejects this claim as meritless. *See United States v. Levy*, 849 F. Supp. 2d 1353, 1356 (S.D. Fla. 2012) (rejecting similar argument and collecting cases reaching same conclusion). Finally, Smith contends that criminal punishment under the Controlled Substances Act, 21 U.S.C. § 801 et seq., unconstitutionally exceeds Congress's regulatory authority where it prohibits the production, distribution, and possession of controlled substances. The court rejects this claim as meritless too. *See Champion v. Ames*, 188 U.S. 321 (1903) (Congress is vested with the power to regulate commerce among the states and that power may assume the form of prohibition).

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Accordingly, it is ORDERED that:

(1) The recommendation of the United States Magistrate Judge (doc. no. 218) is adopted.

(2) Defendant Howard James Smith's motion to dismiss (doc. no. 202) is denied.

DONE, this the 20th day of February, 2019.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE